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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,407	12/12/2003	Jane Smith Parker	190250-1720	2094
38823 7590 04/24/2008 THOMAS, KAYDEN, HORSTMAYER & RISLEY, LLP/ AT&T Delaware Intellectual Property, Inc. 600 GALLERIA PARKWAY, S.E. SUITE 1500 ATLANTA, GA 30339-5994				
EXAMINER				
PARKER, BRANDI P				
ART UNIT		PAPER NUMBER		
4137				
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04/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/735,407

**Applicant(s)**

PARKER, JANE SMITH

**Examiner**

BRANDI P. PARKER

**Art Unit**

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/IB)  
Paper No(s)/Mail Date 11/30/2007, 1/21/2008, 3/18/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Acknowledgements***

1. Claims 1-31 are pending in this Office Action.
2. This Office Action is given Paper No. 20080415 for reference purposes only.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is directed towards a vacation request processing system comprising of logic. Specifically, the claim is directed to software (i.e. logic). However, in order to be considered statutory software must be stored on a computer readable medium that when executed causes a computer to perform a particular method or process (i.e. functionality) (MPEP 2106.01 section I).

5. Claims 2-10 are rejected for being dependent upon rejected claim 1.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Regarding claims 1 and 22, the preamble describes a vacation processing system, however, the body of the claims do not disclose any corresponding structure for the system. Apparatus claims cover what a device is, not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990), MPEP 2114. Therefore, the scope of the claims is indefinite and appropriate correction is required.
9. Claims 2-10 and 23-31 are rejected for being dependent upon rejected claims.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green (US 6192346) in view of Leamon (US 6970829).
12. With respect to **claims 1, 11 and 22**, Green teaches vacation request processing system comprising:

- a. logic configured to provide a vacation eligibility criteria based on at least a first rule (column/line 4/63-5/11, Figure 6); and
- b. logic configured to process the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria (column/line 4/52-5/34).

Green does not explicitly teach providing a workload statistic used to operate a call center. However, Leamon teaches

- c. logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center (column/line 5/40-47)

It would have been obvious to one having ordinary skill in the art to modify the system in Green with the disclosure in Leamon because Leamon can improve planning in a call center environment.

13. As to **claims 2, 12 and 23**, Leamon teaches wherein the first workload statistic comprises an estimated volume of telephone calls that the first call center is expected to handle over a first period of time (column/line 1/48-51).

14. Regarding **claims 3, 13 and 24**, Leamon teaches wherein the first workload statistic comprises an estimated volume of telephone calls that the first call center is expected to handle over a first period of time, and wherein the estimated volume of telephone calls is derived from historical call volume data obtained from a communications switch (column/line 19/26-34).

15. With respect to **claims 4, 14 and 25**, Green teaches wherein the first workload statistic comprises an expected number of operators needed to operate the first call center during a first period of time (column/line 4/21-28, 4/34-37).

16. As to **claims 5, 15 and 26** Leamon teaches wherein the first workload statistic is derived from telephone call data stored in a database of a communications switch that routes incoming calls or place the calls in a queue. (column/line 1/48-51, 3/12-18, 19/26-34). Although Leamon does not explicitly teach storing call data in the database of a POTS switch, Examiner notes that it would have been obvious to one having ordinary skill in the art to substitute a communication switch with a queuing system for a POTS switch because the call center operators' telephone lines can be connected to speed the call transfer process.

17. Regarding **claims 6, 16 and 27**, Green teaches system of claim 1, wherein the first rule is derived from an employment grade of the first employee, and wherein the employment grade comprises at least one of a payscale and a length of service of the first employee (Figure 5, item 96; column/line 5/56-65) .

18. With respect to **claims 7, 17 and 28**, Leamon teaches wherein the workload estimate is provided to the first call center in a timely basis, the timely basis comprising at least one of an hourly basis, a daily basis, a weekly basis, a monthly basis, a quarterly basis, a semi-annual basis, and an annual basis (column/line 4/38-44).

19. As to **claims 8, 18 and 29**, Green teaches the system of claim 7, wherein the vacation eligibility criteria is provided in a timely basis, the timely basis comprising at

least one of an hourly basis, a daily basis, a weekly basis, a monthly basis, a quarterly basis, a semi-annual basis, and an annual basis (Figure 4, column/line 4/63-5/4).

20. Regarding **claims 19, 21 and 30** Green teaches, wherein logic configured to process the vacation request comprises: logic configured to receive the vacation request of the first employee; logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied (Figure 3, column/line 6/37-43).

21. As to **claims 10, 20 and 31**, Green teaches wherein granting the vacation request comprises providing a summary of the available vacation days. Although Green does not teach transmitting an e-mail to send notification of the approval of the vacation request, Leamon teaches a call contact center with the capability to conduct transactions through email (column/line 4/22-28).

### ***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koshiba et al (US 2002/0184069), McDuff et al (US 6490350) and O'Brien (US 6587831).

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.



24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt II can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications -is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. P. P./  
Examiner, Art Unit 4137

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 4137